

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JOHN J. TATAR,

Plaintiff,

v.

CASE NO. 11-11212

HON. MARIANNE O. BATTANI

WACHOVIA BANK, N.A.,

Defendant.

**ORDER DENYING EMERGENCY MOTION TO STAY PROCEEDINGS
AND REINSTATE ESCROW ACCOUNT IN THE 16TH JUDICIAL DISTRICT
LANDLORD TENANT COURT UNTIL PLAINTIFF JOHN TARTAR'S 1ST
AMENDED COMPLAINT IS HEARD IN THE U.S. DISTRICT COURT**

Before the Court is Plaintiff's Emergency Motion to Stay Proceedings and Reinstate Escrow Account in the 16th Judicial District Landlord Tenant Court Until Plaintiff John Tatar's 1st Amended Complaint is Heard in the U.S. District Court (Doc. No. 33), and Amendment thereto (Doc No. 34). According to the Amendment, "a writ of restitution is imminent in the 16th Judicial District Court Landlord-Tenant division. . . ." (Doc. No. 34, ¶ 1). Plaintiff asks this Court to stay the proceedings in the state court until his federal appeal is heard.

Under the Anti-Injunction Act, the Court ordinarily "may not grant an injunction to stay proceedings in a State court except as expressly authorized by Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments." 28 U.S.C. § 2283. This case does not fall within one of the statutory exceptions to the Anti-Injunction Act. See Cragin v. Comerica Mortgage Co., 1995 WL 626292, at * 1 (6th Cir., Oct.24, 1995) (holding that the Anti-Injunction Act "generally precludes federal injunctions that

would stay pending foreclosure proceedings in the state courts”); see also Sherman v. Saxon Mortg. Services, Inc., No. 10-2282, 2010 WL 2465459, at *6 (W.D. Tenn., Jun.14, 2010) (noting that if a foreclosure action was pending in state court, relief from the foreclosure would be precluded by the Anti-Injunction Act); Leavell v. Wells Fargo Bank, N.A., No. 08-15278, 2009 WL 1439915, at *3–5 (E.D. Mich., May 19, 2009) (finding no exemption to the Anti-Injunction Act existed).

Plaintiff’s case has been dismissed in its entirety. Therefore, there is no need to act to aid jurisdiction. Nor is there a judgment to protect or effectuate.

Moreover, although Plaintiff filed an application to proceed *in forma pauperis* on appeal, the Court has certified his appeal is not in good faith. Therefore, to the extent Plaintiff is requesting a stay pending appeal, the Court finds no basis for granting such a request.

Accordingly, Plaintiff’s motion and amendment are **DENIED**.

IT IS SO ORDERED.

s/Marianne O. Battani
MARIANNE O. BATTANI
UNITED STATES DISTRICT JUDGE

Dated: July 29, 2011

CERTIFICATE OF SERVICE

Copies of this Order were mailed to Plaintiff and counsel of record on this date by ordinary mail and electronic filing.

s/Bernadette M. Thebolt
Case Manager